

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re

Chapter 13

FRANK J. DICICCO

Case No.: 1-22-42468-jmm

Debtor.

AFFIDAVIT

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STATE OF NEW YORK)
COUNTY OF SUFFOLK) ss:

PETER COREY, being duly sworn, deposes and says:

I am the Staff Attorney to the Standing Chapter 13 Trustee in the above referenced case and as such am fully and completely familiar with the facts and circumstances involved herein. I have conferred with the debtor's attorney. I submit this Affidavit in place of the Affidavit of Michael J Macco, dated September 28, 2023, which was mistakenly filed by this office. To date, the following documents are missing in this matter:

1. The debtor's 2022 Federal and State Tax Returns. The debtor's filing in 2019 indicates that the debtor has been working as a Nutritionist and receives income from that business from at least the date of prior filing. This case was Chapter 11 prior to conversion and Operating Reports were filed showing the debtor continues to receive income as a Nutritionist and/or rental income. The debtor is Schedule I, indicates that the debtor earns money as a Nutritionist.

2. The Trustee requests an Affidavit regarding the debtors' existing business assets and their fair Market Value including any receivables due on the date of filing. This can be done via an Affidavit by the debtor with personal knowledge of facts.

3. The Trustees made a request for an Amended Plan, to either outline that the case is going forward due to the loss of Mitigation, or the property is going to be sold. Debtor has sent conflicting signals to the Trustee.

4. An Amended Schedule I to list the contribution of the sister of \$1,600.00 in the expenses that the sister pays real estate directly.

5. The Motion to approve a Real Estate Broker to list the property for sale.

6. An Attorney Declaration as required to do a Telephonic 341.

7. An Amended Schedule AB, to list the proper balances in the debtor's bank accounts, on the date of filing. The debtor has filed a plan which pays no less the one percent and due to the balances in the Bank Accounts, the case will not meet the requirements of Section 1325 with only a 1% distribution.

8. A Credit Report, the debtor's schedules do not indicate that the debtor has any debt, but the creditors have been filing proofs of claim, in the matter that is not listed on the Schedules. It appears that the debtor might have other creditors who have not received notices of Bankruptcy.

9. An email address for the debtor, since this Trustee sends annual statements to the debtors via email.

10. Lastly, a proof of claim by counsel.

11. Trustee has also requested that the 341 be conducted since the plan is not completed, because the plan is inconsistent with the debtors' intentions. A plan must be filed consistent with the plan's intentions, so that the Trustee can review the plan with the debtor and conclude the 341.

12. The Trustee has waived any request for Operating Reports that were previously requested however, had made out the request, that in lieu of any Operating Reports the debtor shows quarterly Tax Returns for April 15, 2023, June 15, 2023, and September 15th, 2023. Trustee has also waived any Corporate Tax Returns since the debtors business as a Nutritionists is a sole proprietorship and would be included in a Schedule C on as the debtor 2022 Tax Returns.

WHEREFORE, it is respectfully requested that the Trustee's motion be granted.

/s/ **Peter Corey**

PETER COREY

PC/gs

Sworn to before me this
4th day of October, 2023

/s/ **Janine M. Zarrilli**

Notary Public

Janine M. Zarrilli

Notary Public, State of New York

No. 01ZA5084708

Qualified in Nassau County

Commission Expires October 14, 2025

STATE OF NEW YORK)
COUNTY OF SUFFOLK) ss:-

Gina Schaffer, being duly sworn, deposes and says: deponent is not a party to the action, is over 18 years of age, and resides in Suffolk County, New York.

On October 4, 2023, deponent served the within **AFFIDAVIT** upon the following parties, at the addresses designated by said parties for that purpose by electronic service or by depositing a true copy of same, enclosed in a post-paid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York.

Frank J. DiCicco
134-37 58th Road
Flushing, NY 11355

And upon the following parties, by the email address designated by said parties for that purpose:

Office of the United States Trustee
U.S. Federal Office Building
USTP.Region02.BR.TFRTDR@usdoj.gov

Karamvir Dahiya. Esq.
Dahiya Law Offices LLC
Email: karam@bankruptcypundit.com
Attorney for Debtor

/s/ Gina Schaffer
Gina Schaffer

Sworn to before me this
4th day of October, 2023

/s/ Janine M. Zarrilli
Notary Public
Janine M. Zarrilli
Notary Public, State of New York
No. 01ZA5084708
Qualified in Nassau County
Commission Expires October 14, 2025